

REMARKS

The Amendments

In the Claims

Claims 3, 8-12, 15, 18-23, 25-29, and 34 are currently pending in the application. Claims 1-2, 4-7, 13-14, 16-17, 24, 30-33, and 35-37 were previously canceled. Applicants have amended claims 3 and 15, as indicated in the Listing of Claims. In particular, applicants have amended claim 3 to replace the term "comprising" with the term "consisting of" in the definition of substituent Q₃. Applicants have amended claim 15 to correct the dependency of the claim.

Neither of the amendments adds new matter. Their entry is requested.

Withdrawn Rejections and Objections

Applicants acknowledge with appreciation that any outstanding rejection or objection not expressly maintained in the Office Action has been withdrawn or rendered moot in view of the previous amendments and remarks.

The Rejections

Double patenting

The Examiner has maintained the rejection of claims 3, 8-12, 15, 18-23, and 25 under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-14 and 24 of U.S. Patent No. 6,632,945 for the reasons provided in the previous Office Action.

Applicants disagree that the rejected claims are not patentably distinct from claims 1-14 of U.S. Patent No. 6,632,945. Solely to facilitate prosecution, applicants file concurrently herewith a terminal disclaimer in compliance with 37 C.F.R. § 1.321(b) and (c). Applicants request that the rejection be withdrawn in light of this filing.

35 U.S.C. § 112, Second Paragraph

The Examiner has rejected claim 15 under 35 U.S.C. § 112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the claim depends from canceled claim 14. In response to the rejection, applicants have amended claim 15 to depend from base claim 3. Applicants believe that this amendment obviates the rejection and request that it be withdrawn.

The Examiner has also rejected claims 3, 8-12, 18-23, 25-29, and 34 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner contends that the term "comprising" in the definition of substituent Q₃ in claim 3 leaves the claim open for the inclusion of unspecified heteroatoms and causes the claim to be broader than the invention. The Examiner suggests that replacing the objected-to term with the term "consisting of" would obviate the rejection. Applicants have adopted the Examiner's suggestion and request that the rejection be withdrawn.

Conclusion

In view of the above, applicants request that the Examiner enter the above amendments, consider the accompanying arguments, withdraw the rejections, and allow the pending claims to pass to issue.

Respectfully submitted,

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